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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

(Lassen)

RONNELL HILL,

Plaintiff and Appellant,

v.

T. HAYS et al.,

Defendants and Respondents.

C079732

(Super. Ct. No. 57781)

Plaintiff Ronnell Hill, an incarcerated prisoner representing himself in propria persona, appeals from a judgment entered by the trial court following its order granting the motion of defendants T. Hays and C. Fackrell to strike Hill's complaint and dismissing the action. As we shall explain, Hill has failed to present any cogent argument identifying an error warranting reversal. Therefore, we will affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On September 17, 2013, Hill filed a complaint against defendants for “intentional bodily injury, intentional infliction of emotional distress.” On May 27, 2014, defendants demurred to Hill’s complaint, claiming he failed to state facts sufficient to support his cause of action. On July 16, 2014, the trial court sustained defendants’ demurrer to Hill’s complaint, granting Hill 30 days’ leave to amend his complaint. Notice of entry of the order was mailed to Hill at his prison address on August 1, 2014 by counsel for defendants.

Hill filed his amended complaint on October 1, 2014. The gravamen of Hill’s amended complaint is that defendants failed to protect him from an assault by fellow inmates and conspired in the planning of the assault as retaliation for Hill’s filing of grievances and litigation against California’s Department of Corrections and Rehabilitation and its employees. On March 13, 2015, defendants demurred to the amended complaint and also moved to strike it pursuant to Code of Civil Procedure sections 436 and 438, subdivision (h)(4)(A) as untimely filed.¹ Copies of the motions were served by mail on Hill at his prison address on March 12, 2015. As identified in the moving papers, the hearing on the motion to strike was scheduled to occur on April 21, 2015, and the hearing on the demurrer was scheduled to occur on April 28, 2015.

Hill did not oppose the motion to strike and did not appear at the hearing on the motion. On May 11, 2015, following the hearing, the trial court granted defendants’ motion to strike Hill’s amended complaint as untimely pursuant to sections 436 and 438, subdivision (h)(4)(A), dismissed the action pursuant to section 581, subdivision (f)(3), and entered judgment in favor of defendants. Hill timely appealed the judgment.

¹ Undesignated statutory references are to the Code of Civil Procedure.

DISCUSSION

Though Hill's briefs on appeal do not include the required headings summarizing for this court what errors he is challenging on appeal (Cal. Rules of Court, rule 8.204(a)(1)(B)), it appears the crux of his claim on appeal is that the clerks of the trial court frustrated Hill's ability to litigate the action by failing to arrange for his telephonic appearances at case management conferences and by refusing to file his case management statements.² Because Hill has not presented any cogent factual or legal analysis to explain why it was error for the trial court to grant defendants' motion to strike his amended complaint and to dismiss the action, we will affirm the judgment.

First, to the extent Hill's claim relies on the trial court's alleged failure to arrange his telephonic court appearances, we are unmoved. Hill claims the trial court violated its own local rule (Super. Ct. Lassen County, Local Rules, rule 6(B)(1)(a)(ii)) when it refused to file his admittedly nonconforming case management statements and did not arrange telephonic appearances on his behalf. Local rule 6(B)(1)(a)(ii) provides that a party may appear at a case management conference by telephone where "the party has made a good faith effort to meet and confer before the conference as required by law and has timely served and filed a case management statement." It appears the trial court did grant Hill permission to appear telephonically (by "CourtCall") at "all future hearings." What Hill apparently fails to recognize is that he bears some burden in arranging such telephonic appearances. Local rule 6(A)(3) explains that "CourtCall appearances are scheduled, in writing, in advance, by serving on all parties to the action and delivering (via fax, mail, or personal delivery) to CourtCall, not less than 5 court days prior to the hearing date, LSC Form 6a, *Request for CourtCall Telephonic Appearance* form, and by

² Neither does appellant's opening brief comply with any of the requirements set forth in California Rules of Court, rule 8.204(a)(1)(A) or (2). Though we could strike Hill's brief for nonconformity, we opt to disregard the noncompliance in this instance. (*Id.*, rule 8.204(e)(2)(C).)

paying the stated fee or fee waiver for each CourtCall appearance.” Local rule 6(B)(2)(a) clarifies that the burden is on the attorney or self-represented litigant, not the trial court, to serve the request for a telephonic appearance. Here, Hill’s claim appears to be that the trial court failed to arrange telephonic appearances for him; it had no obligation to do so. Additionally, we fail to see the correlation between Hill’s lack of participation in case management conferences and the order of the trial court granting defendants’ motion to strike Hill’s amended complaint as untimely filed.

Next, we address Hill’s apparent claim that if he had been provided a telephonic court appearance, he would have had time to respond to defendants’ motion to strike. Hill states, “The defendants[’] attorney sent a letter to the plaintiff with a proposed dismissal motion requiring the plaintiff to respond within five days from that date that it was sent, but the plaintiff did not receive [it] until its deadline and had no time to oppose [it,] and subsequently the plaintiff[’]s case was dismissed. Had the plaintiff received his required phone CourtCall he would have known the deadline instantly and had time to respond.” We can only assume the “letter” Hill refers to is the letter defendants sent to Hill conveying the proposed order granting their motion to strike and order of dismissal, which was sent on April 23, 2015, after the trial court had already heard defendants’ motion on April 21, 2015. That letter, providing Hill an opportunity to object to the *form* of the order, and not its substantive merits, was sent by defendants’ counsel in conformity with California Rules of Court, rule 3.1312. The trial court did not enter its order until May 11, 2015. Therefore, Hill had an opportunity to object to the form of the order prior to its entry; he did not do so. Regardless, his lack of response to the letter does not address the substantive merits of the trial court’s order granting defendants’ motion to strike and dismissing the action.

We are similarly unmoved by Hill’s assessment that there was some error because a judge other than the judge who had heard his case management conferences heard

defendants' motion to strike his amended complaint. As the trial court clerks had explained to Hill previously, the judge who heard the case management conferences did not hear noticed motions. Those were heard by a different judge of the superior court. Hill does not explain how there was any prejudice or error that resulted from a different judge hearing defendants' motion, and we find none.

Nor was it error for defendants, and not the court, to serve on plaintiff their motion to strike the amended complaint. Section 1005, subdivision (b) requires that all moving papers be filed and served on other parties at least 16 court days prior to the hearing on that motion, plus five days if service is completed by mail. Here, the record indicates defendants timely served their motion to strike Hill's amended complaint by mail on March 12, 2015, for the April 21, 2015 hearing. Hill ought to have filed his opposition to the motion, if any, at least nine court days prior to that hearing. (*Ibid.*) He did not do so, and he offers no explanation for his failure to oppose the motion. Neither does Hill indicate he sought a telephonic appearance for that hearing, or explain why the motion was improperly decided.

Finally, we have independently culled from the record on appeal that Hill apparently attempted to file his amended complaint earlier, but it was returned to him by the trial court clerk on July 21, 2014, for various reasons; it was returned again on August 19, 2014, because Hill failed to include a summons with the amended complaint; and it was returned again on September 19, 2014, because the proof of service submitted with the amended complaint was incomplete. Hill does not argue on appeal that any of these rejections of his amended complaint were erroneous. Therefore, he has not presented any cogent argument to challenge the trial court's order granting defendants' motion to strike Hill's amended complaint and dismissing the action.

DISPOSITION

The judgment is affirmed. Defendants are entitled to their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1), (2).)

_____**BUTZ**_____, J.

We concur:

_____**RAYE**_____, P. J.

_____**MAURO**_____, J.